

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CLIFTON DACAS,

Plaintiff,

ORDER

17-CV-3568 (EK) (SMG)

-against-

VINCENT DUHANEY, JEANETTE CLOUDEN AKA
JEANETTE DUHANEY, RUTLAND ROAD MEAT
AND FISH, et al.,

Defendants.

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ERIC KOMITEE, United States District Judge:

The Court has received Magistrate Judge Gold's Report and Recommendation (R&R) dated September 25, 2020. Minute Entry dated 09/25/2020. The relevant background is as follows: In October 2019, Judge Gold issued a prior R&R denying Plaintiff's motion for default judgment, granting Defendants' cross-motions to vacate default, and recommending that Plaintiff recover the reasonable attorneys' fees and costs incurred with his motion for default judgment. ECF No. 67. That decision relied in part on Defendants' counsel "having offered to pay plaintiff's reasonable attorneys' fees and costs associated with the motion for default judgment." *Id.* at 10. Defendants did not object to this R&R at the time, including to the portion recommending that they pay reasonable fees. In November 2019, Judge Leo Glasser, the presiding district judge at the time, adopted the R&R in its

entirety and referred “[t]he matter of plaintiff’s attorneys’ fees and costs” to Judge Gold “in the event the parties cannot reach an agreement.” ECF No. 69 at 1-2.

After the parties litigated the amount of attorneys’ fees owed, Judge Gold issued a second R&R in June 2020 recommending that this Court grant Plaintiff’s motion for attorneys’ fees in the amount of \$15,126.00 plus \$478.86 in costs, ECF No. 93, which this Court adopted, ECF No. 101. Defendants did not object to this R&R either.

Defendants then moved to stay entry of judgment as to the payment of fees until the end of the litigation. ECF No. 104. In response, Judge Gold issued this R&R recommending that the Court deny Defendants’ motion to stay and order them to pay the fees now. Judge Gold reasoned that this Court had not only ordered Defendants to pay this amount, but that his initial recommendation to vacate default relied, at least in part, on Defendants’ willingness to pay the very fees they now seek to postpone. ECF No. 111 at 10:4-8; 14:18-15:6. Once again, Defendants have not objected to Judge Gold’s R&R. Accordingly, the Court reviews the R&R for clear error on the face of the record. See Advisory Comm. Notes to Fed. R. Civ. P. 72(b); accord *Gesualdi v. Mack Excavation & Trailer Serv., Inc.*, No. 09-CV-2502, 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010). Having reviewed the record, the Court finds no clear error.

Accordingly, the Court adopts the R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1). Therefore, Defendants' motion to stay entry of judgment as to attorneys' fees and costs is denied. The Clerk of Court is respectfully directed to enter judgment in Plaintiff's favor in the amount of \$15,126.00 for attorneys' fees and \$478.86 in costs.

SO ORDERED.

/s Eric Komitee
ERIC KOMITEE
United States District Judge

Dated: December 30, 2020
Brooklyn, New York